

## **Appendix B**

1. IRS Form 8586 – Low-Income Housing Credit
2. IRS Form 8609 – Low-Income Housing Credit Allocation Certification
3. IRS Form 8611 – Recapture of Low-Income Housing Credit
4. IRS Form 8693 – Low-Income Housing Credit Disposition Bond
5. IRS Form 8823 – Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

**Low-Income Housing Credit****1999**Attachment  
Sequence No. **36b**► **Attach to your return.**

Name(s) shown on return

Identifying number

**Part I Current Year Credit** (See instructions.)

1	Number of Forms 8609 attached . . . . .	►	
2	Eligible basis of building(s) (total from attached Schedule(s) A (Form 8609), line 1) . . . . .		<b>2</b>
3a	Qualified basis of low-income building(s) (total from attached Schedule(s) A (Form 8609), line 3) . . . . .		<b>3a</b>
b	Has there been a decrease in the qualified basis of any building(s) since the close of the preceding tax year? <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> If "Yes," enter the building identification number (BIN) of the building(s) that had a decreased basis. If more space is needed, attach a schedule to list the BINs. (i) . . . . . (ii) . . . . . (iii) . . . . . (iv) . . . . .		
4	Current year credit (total from attached Schedule(s) A (Form 8609), see instructions) . . . . .		<b>4</b>
5	Credits from flow-through entities (if from more than one entity, see instructions): If you are a— Then enter total of current year housing credit(s) from— a Shareholder Schedule K-1 (Form 1120S), lines 12b(1) through (4) b Partner Schedule K-1 (Form 1065), lines 12a(1) through (4), or Schedule K-1 (Form 1065-B), box 8 } — c Beneficiary Schedule K-1 (Form 1041), line 14 EIN of flow-through entity		<b>5</b>
6	Add lines 4 and 5. (See instructions to find out if you complete lines 7 through 17 or file Form 3800.) . . . . .		<b>6</b>
7	<b>Passive activity credit or total current year credit</b> for 1999 (see instructions) . . . . .		<b>7</b>

**Part II Tax Liability Limit**

8	Regular tax before credits: • Individuals. Enter amount from Form 1040, line 40 . . . . . • Corporations. Enter amount from Form 1120, Schedule J, line 3 (or Form 1120-A, Part I, line 1) . . . . . • Other filers. Enter regular tax before credits from your return . . . . .		<b>8</b>
9a	Credit for child and dependent care expenses (Form 2441, line 9) . . . . .	<b>9a</b>	
b	Credit for the elderly or the disabled (Schedule R (Form 1040), line 20) . . . . .	<b>9b</b>	
c	Child tax credit (Form 1040, line 43) . . . . .	<b>9c</b>	
d	Education credits (Form 8863, line 18) . . . . .	<b>9d</b>	
e	Mortgage interest credit (Form 8396, line 11) . . . . .	<b>9e</b>	
f	Adoption credit (Form 8839, line 15) . . . . .	<b>9f</b>	
g	District of Columbia first-time homebuyer credit (Form 8859, line 11) . . . . .	<b>9g</b>	
h	Foreign tax credit . . . . .	<b>9h</b>	
i	Possessions tax credit (Form 5735, line 17 or 27) . . . . .	<b>9i</b>	
j	Credit for fuel from a nonconventional source . . . . .	<b>9j</b>	
k	Qualified electric vehicle credit (Form 8834, line 19) . . . . .	<b>9k</b>	
l	Add lines 9a through 9k . . . . .		<b>9l</b>
10	Net regular tax. Subtract line 9l from line 8. . . . .		<b>10</b>
11	Alternative minimum tax: • Individuals. Enter amount from Form 6251, line 28 . . . . . • Corporations. Enter amount from Form 4626, line 15. . . . . • Estates and trusts. Enter amount from Form 1041, Schedule I, line 39. . . . .		<b>11</b>
12	Net income tax. Add lines 10 and 11. . . . .		<b>12</b>
13	Tentative minimum tax (see instructions): • Individuals. Enter amount from Form 6251, line 26 . . . . . • Corporations. Enter amount from Form 4626, line 13. . . . . • Estates and trusts. Enter amount from Form 1041, Schedule I, line 37 . . . . .	<b>13</b>	
14	If line 10 is more than \$25,000, enter 25% (.25) of the excess (see instructions) . . . . .	<b>14</b>	
15	Enter the greater of line 13 or line 14. . . . .		<b>15</b>
16	Subtract line 15 from line 12. If zero or less, enter -0- . . . . .		<b>16</b>
17	<b>Low-income housing credit allowed for current year.</b> Enter the <b>smaller</b> of line 7 or line 16. Enter here and on Form 1040, line 47; Form 1120, Schedule J, line 4d; Form 1120-A, Part I, line 2a; Form 1041, Schedule G, line 2c; or the applicable line of your return . . . . .		<b>17</b>

**General Instructions**

Section references are to the Internal Revenue Code.

**Purpose of Form**

An owner of a residential rental building in a qualified low-income housing project uses Form 8586 to claim the low-income housing credit.

The low-income housing credit determined under section 42 is a credit of 70% of the qualified basis of each new low-income building placed in service after 1986 (30% for certain federally subsidized new buildings or existing

buildings). This credit is taken over a 10-year period so that the present value of the 10 annual credit amounts determined as of the last day of the first year of the credit period equals 70% (or 30%) of the building's qualified basis.

In general, the 10-year credit period starts at the beginning of the tax year in which the building is placed in service. However, you may elect to begin the 10-year credit period in the tax year after the year the building was placed in service by checking the "Yes" box in Part II, line 10a of **Form 8609**, Low-Income Housing Credit Allocation Certification.

## S Corporations, Partnerships, Estates, and Trusts

Complete Part I to figure the credit to pass through to the shareholders, partners, or beneficiaries. Attach Form 8586 to the entity's income tax return along with Form 8609, and **Schedule A (Form 8609)**, Annual Statement, for each building. An electing large partnership treats the part of the credit attributable to property placed in service before 1990 as a "rehabilitation credit" when reporting the credit to its partners.

## Qualified Low-Income Housing Project

The low-income housing credit can only be claimed for residential rental buildings in low-income housing projects that meet one of the minimum set-aside tests (20–50 or 40–60 (25–60 for New York City only)). See the instructions for Part II, line 10c of Form 8609 for details. You may elect either test for the project, but once made, the election is irrevocable. The test elected must be the same for all buildings in the project. Use Form 8609 to make this election. See section 42(g) for details.

Except for buildings financed with certain tax-exempt bonds, you may not take a low-income housing credit on a building if it has not received an allocation. Generally, the allocation must be received by the close of the calendar year the building is placed in service. In addition, no credit will be allowed in excess of the amount allocated to the building by the housing credit agency. See section 42(h)(1) for details. An allocation is not needed when (a) 50% or more of the aggregate basis of the building and the land on which the building is located is financed with certain tax-exempt bonds issued after 1989 for buildings placed in service after 1989; or (b) 70% or more of the aggregate building and land is financed with certain tax-exempt bonds issued before 1990. "Land on which the building is located" includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

Except as noted in the **Specific Instructions**, you must obtain a Form 8609 (with Part I completed) from the state or local housing credit agency for each building for which you are claiming a credit. Attach to your return a copy of Form 8609 and accompanying Schedule A (Form 8609) for each building for each year of the 15-year compliance period. You must also certify certain first-year information to the IRS on Form 8609. If this certification is not made, you may not claim a credit for that building.

## Recapture of Credit

There is a 15-year compliance period during which the residential rental building must continue to meet certain requirements. If, as of the close of any tax year in this period, there is a reduction in the qualified basis of any building from the previous year, you may have to

recapture a part of the credit you have taken. Similarly, you may have to recapture part of the credits taken in previous years upon certain dispositions of the building or interests therein. Use **Form 8611**, Recapture of Low-Income Housing Credit. See the instructions for Form 8611 and section 42(j) for more information.

## Recordkeeping

Keep a copy of this Form 8586 together with all Forms 8609, Schedule(s) A (Form 8609), and Form 8611 for 3 years after the 15-year compliance period ends.

## Specific Instructions

**Note:** If your only credit is from a flow-through entity (i.e., S corporation, partnership, estate, or trust), you do not have to obtain, complete, or attach Form 8609 or Schedule A (Form 8609) to Form 8586. Also, skip lines 1 through 4.

**Line 1.** If any of the attached Forms 8609 are for buildings that are part of a multiple building project (defined in instructions for Part II of Form 8609), attach a schedule listing the following information for each project: (a) name and address of the project and each building in the project, (b) the building identification number (BIN) of each building in the project, (c) the aggregate credit dollar amount for the project, and (d) the credit allocated to each building in the project.

**Line 3b.** A decrease in qualified basis will result in recapture if the qualified basis at the close of the tax year is less than the qualified basis at the close of the first year of the credit period.

**Important:** If the reduction in qualified basis at the close of the tax year also results in a violation of the minimum set-aside requirement, then no credit is allowable for the year. If you must recapture credits, use Form 8611. See section 42(j) for more information.

**Line 4.** The line 4 credit for the year is figured on Schedule A (Form 8609) for each building. Attach copies of Form(s) 8609 and Schedule(s) A (Form 8609) to Form 8586 for each tax year a credit is claimed. Enter on line 4 the credit from Schedule A (Form 8609). If more than one Form 8609 and related Schedules A are attached, enter on line 4 the total credit from all attached Schedules A.

For a flow-through entity with a line 4 credit attributable to more than one building, attach a schedule to Form 8586 that shows each shareholder's, partner's, or beneficiary's name, identifying number, and share of the line 4 credit and BIN for each building.

**Line 5.** If you have a credit from a flow-through entity, enter the entity's employer identification number (EIN) and the credit amount on line 5. If you have credits from more than one flow-through entity, attach a statement that shows the EIN and credit amount for each entity. Enter the total credit on line 5.

**Line 6.** If the line 6 credit is your only 1999 general business credit (see **Note** below) and you do not have a carryback or carryforward of any general business credit, complete line 7 and Part II to determine your allowed low-income housing credit.

If you have more than one of the credits included in the general business credit, a carryback or carryforward of any of these credits, or general credits from an electing large partnership (Schedule K-1, (Form 1065-B)), **do not** complete line 7 or Part II. Enter the line 6 credit on **Form 3800**, General Business Credit, and complete Form 3800 to determine your allowed credit.

**Note:** The general business credit consists of several credits including investment (Form 3468), work opportunity (Form 5884), welfare-to-work (Form 8861), alcohol used as fuel (Form 6478), research (Form 6765), low-income housing (Form 8586), disabled access (Form 8826), enhanced oil recovery (Form 8830), renewable electricity production (Form 8835), Indian employment (Form 8845), employer social security and Medicare taxes paid on certain employee tips (Form 8846), orphan drug (Form 8820), contributions to selected community development corporations (Form 8847), and trans-Alaska pipeline liability fund. The empowerment zone employment credit (Form 8844), while a component of the general business credit, is figured separately on Form 8844 and is never carried to Form 3800.

**Line 7.** The line 6 credit may be subject to the passive activity credit limitation. Individuals, estates, and trusts should see the separate **Instructions for Form 8582-CR**, Passive Activity Credit Limitations, and closely held corporations should see the separate **Instructions for Form 8810**, Corporate Passive Activity Loss and Credit Limitations, to find out if this limitation applies. If applicable, enter the credit allowed from Form 8582-CR or Form 8810 on line 7. Filers not subject to the passive activity limitation should enter the line 6 amount on line 7.

**Line 13.** Although you may not owe alternative minimum tax (AMT), you generally must still compute the tentative minimum tax (TMT) to figure your credit. For a small corporation exempt from the AMT under section 55(e), enter zero. Otherwise, complete **and** attach the applicable AMT form or schedule and enter the TMT on line 13.

**Line 14.** See section 38(c)(3) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

**Line 17.** If you cannot use part or all of the credit because of the tax liability limit (line 16 is smaller than line 7), carry the excess back 1 year and then forward 20 years. See the separate **Instructions for Form 3800** for details.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 7 hr., 25 min.

**Learning about the law or the form** . . . . . 1 hr., 44 min.

**Preparing the form** . . . . . 3 hr., 47 min.

**Copying, assembling, and sending the form to the IRS** . . . . . 32 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.



# Low-Income Housing Credit Allocation Certification

► **Do not file separately. The building owner must attach Form 8586, Form 8609, and Schedule A (Form 8609) to its Federal income tax return.**

OMB No. 1545-0988

Attachment  
Sequence No. **36**

## Part I Allocation of Credit—Completed by Housing Credit Agency Only

Check if: ☐ Addition to Qualified Basis ☐ Amended Form

<b>A</b> Address of <b>building</b> (do not use P. O. box)(see instructions)	<b>B</b> Name and address of <b>housing credit agency</b>
<b>C</b> Name, address, and TIN of <b>building owner</b> receiving allocation	<b>D</b> Employer identification number of agency
	<b>E</b> Building identification number (BIN)

TIN ► .....

<b>1a</b> Date of allocation ► .....	<b>b</b> Maximum housing credit dollar amount allowable	<b>1b</b>	
<b>2</b> Maximum applicable credit percentage allowable		<b>2</b>	%
<b>3a</b> Maximum qualified basis		<b>3a</b>	
<b>b</b> Check here ► <input type="checkbox"/> if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(C). Enter the percentage to which the eligible basis was increased (see instructions)		<b>3b</b>	1 _ _ %
<b>4</b> Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)		<b>4</b>	%
<b>5</b> Date building placed in service	► .....		
<b>6</b> Check the box that describes the allocation for the building (check one only):			
<b>a</b> <input type="checkbox"/> Newly constructed and federally subsidized	<b>b</b> <input type="checkbox"/> Newly constructed and <b>not</b> federally subsidized	<b>c</b> <input type="checkbox"/> Existing building	
<b>d</b> <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized	<b>e</b> <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures <b>not</b> federally subsidized		

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined Part I of this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official Name (please type or print) Date

## Part II First-Year Certification—Completed by Building Owner for First Year of Credit Period Only

<b>7a</b> Date building placed in service ► .....	<b>b</b> Eligible basis of building (see instructions)	<b>7b</b>	
<b>8a</b> Original qualified basis of the building at close of first year of credit period		<b>8a</b>	
<b>b</b> Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>9a</b> If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>b</b> Do you elect to reduce eligible basis by disproportionate costs of non-low-income units (section 42(d)(3))?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>10</b> Check the appropriate box for each election:			
<b>a</b> Elect to begin credit period the first year after the building is placed in service (section 42(f)(1))		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>b</b> Elect <b>not</b> to treat large partnership as taxpayer (section 42(j)(5))		<input type="checkbox"/> Yes	
<b>c</b> Elect minimum set-aside requirement (section 42(g)) (see instructions)	<input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> 25-60 (N.Y.C. only)		
<b>d</b> Elect deep-rent-skewed project (section 142(d)(4)(B)) (see instructions)		<input type="checkbox"/> 15-40	

**Note:** A separate **Schedule A (Form 8609)**, Annual Statement, for each building must be attached to the corresponding Form 8609 for each year of the 15-year compliance period.

**Caution:** Read the instructions under **Signature** (page 4) **before** signing this part.

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42 and that the qualified basis of the building has ► ☐ has not ► ☐ decreased for this tax year. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature Taxpayer identification number Date  
Name (please type or print)

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 is used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 and related **Schedule A (Form 8609)**, Annual Statement, are also used to certify certain information.

**Housing credit agency.** This is any state or local agency authorized to make low-income housing credit allocations within its jurisdiction.

**Owner of building.** Owners must complete Part II of this form and a separate Schedule A (Form 8609) and attach them to their returns even if an allocation of credit by a housing credit agency is not required. See **Specific Instructions** before completing Part II.

**Building identification number (BIN).** This number is assigned by the housing credit agency. The BIN initially assigned to a building must be used for any allocation of credit to the building that requires a separate Form 8609 (see **Multiple Forms 8609** on this page). For example, rehabilitation expenditures treated as a separate new building should not have a separate BIN if the building already has one. Use the number first assigned to the building.

**Allocation of credit.** For an owner to claim a low-income housing credit on a building (except as explained under **Tax-exempt bonds** below), the housing credit agency must make an allocation of the credit by the close of the calendar year in which the building is placed in service, unless:

- The allocation is the result of an advance binding commitment by the credit agency made not later than the close of the calendar year in which the building is placed in service (see section 42(h)(1)(C));
- The allocation relates to an increase in qualified basis (see section 42(h)(1)(D)); or
- The allocation is made:

1. For a building placed in service no later than the second calendar year following the calendar year in which the allocation is made if the building is part of a project in which the taxpayer's basis is more than 10% of the project's reasonably expected basis as of the end of that second calendar year; or

2. For a project that includes more than one building if (a) the allocation is made during the project period, (b) the allocation applies only to buildings placed in service during or after the calendar year in which the allocation is made, and (c) the part of the allocation that applies to any building

is specified by the end of the calendar year in which the building is placed in service.

See sections 42(h)(1)(E) and 42(h)(1)(F) and Regulations section 1.42-6 for more details.

The agency can only make an allocation to a building located within its geographical jurisdiction. Once an allocation is made, the credit is allowable for all years during the 10-year credit period. A separate Form 8609 must be completed for each building to which an allocation of credit is made.

**Multiple Forms 8609.** Allocations of credit in separate calendar years require separate Forms 8609. Also, when a building receives separate allocations for acquisition of an existing building and for rehabilitation expenditures, a separate Form 8609 must be completed for each credit allocation.

**Tax-exempt bonds.** No housing credit allocation is required for any portion of the eligible basis of a qualified low-income building that is financed with tax-exempt bonds taken into account for purposes of the volume cap under section 146. An allocation is not needed when 50% or more of the aggregate basis of the building and the land on which the building is located (defined later) is financed with certain tax-exempt bonds for buildings placed in service after 1989. However, the owner still must get a Form 8609 from the appropriate housing credit agency (with the applicable items of Part I completed, including an assigned building identification number (BIN)).

**Land on which the building is located.** This includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

### When To File

Housing credit agencies should issue a copy of Form 8609 (with only Part I completed) with instructions to the owner of the building. The housing credit agency must keep a copy and send the original to the IRS with **Form 8610**, Annual Low-Income Housing Credit Agencies Report.

Owners must attach completed Forms 8609 and accompanying Schedules A (Form 8609) to **Form 8586**, Low-Income Housing Credit, and file these forms with their income tax returns by the due date of the return for each tax year in which the credit is claimed. They must also attach Forms 8609 and Schedules A to their returns for each later year in the 15-year compliance period.

**Note to owners: Do not attach Form 8609 or Schedule A (Form 8609) to Form 8586 if the only credit claimed on Form 8586 is from a partnership, S corporation, estate, or trust. The entity will complete those forms and attach them to its return.**

## Recordkeeping

To verify changes in qualified basis from year to year, you must keep a copy of this Form 8609 with all accompanying Schedule(s) A (Form 8609), Form 8586, and Form 8611 for 3 years after the 15-year compliance period ends (unless this recordkeeping requirement is otherwise extended).

## Specific Instructions

### Part I—Allocation of Credit

#### Completed by Housing Credit Agency Only

**Addition to qualified basis.** Check this box if an allocation relates to an increase in qualified basis under section 42(f)(3). Enter only the housing credit dollar amount for the increase. Do not include any portion of the original qualified basis when determining this amount.

**Amended form.** Check this box if this form amends a previously issued form. Complete all entries and explain the reason for the amended form. For example, if there is a change in the amount of initial allocation before the close of the calendar year, file an amended Form 8609 instead of the original form.

**Item A.** Identify the building for which this Form 8609 is issued when there are multiple buildings with the same address (e.g., BLDG. 6 of 8).

**Line 1a.** Generally, the date of allocation is the date the Form 8609 is completed, signed, and dated by an authorized official of the housing credit agency. However, if an allocation is made under section 42(h)(1)(E) or 42(h)(1)(F), the date of allocation is the date the authorized official of the housing credit agency completes, signs, and dates the section 42(h)(1)(E) or 42(h)(1)(F) document used to make the allocation. If no allocation is required (i.e., 50% or greater tax-exempt bond financed building), leave line 1a blank.

**Line 1b.** Enter the housing credit dollar amount allocated to the building for each year of the 10-year credit period. The amount should equal the percentage on line 2 multiplied by the amount on line 3a. For tax-exempt bond projects for which no allocation is required, enter the housing credit dollar amount allowable under section 42(m)(2)(D).

**Line 2.** Enter the maximum applicable credit percentage allocated to the building for the month the building was placed in service or, if applicable, for the month determined under section 42(b)(2)(A)(ii).

If an election is made under section 42(b)(2)(A)(ii) to use the applicable percentage for a month other than the month in which a building is placed in service, the requirements of Regulations section 1.46-8 must be met. The agency must keep a copy of the binding agreement and the election statement and

file the original with the agency's Form 8610 for the year the allocation is actually made. The maximum applicable credit percentage is published monthly in the Internal Revenue Bulletin. For new buildings that are not federally subsidized under section 42(i)(2)(A), use the applicable percentage for the 70% present value credit. For new buildings that are federally subsidized, or existing buildings, use the applicable percentage for the 30% present value credit. See the instructions for line 6 for the definition of "Federally subsidized." A taxpayer may elect under section 42(i)(2)(B) to reduce eligible basis by the principal amount of any outstanding below-market Federal loan or the proceeds of any tax-exempt obligation in order to obtain the higher credit percentage (see Part II, line 9a).

For allocations to buildings for additions to qualified basis under section 42(f)(3), do not reduce the maximum applicable credit percentage even though the building owner may only claim a credit based on two-thirds of the credit percentage allocated to the building.

**Line 3a.** Enter the maximum qualified basis of the building. To figure this, multiply the eligible basis of the qualified low-income building by the smaller of:

1. The percentage of low-income units to all residential rental units (the "unit percentage"), or
2. The percentage of floor space of the low-income units to the floor space of all residential rental units (the "floor-space percentage").

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. Section 42(i)(3) provides for certain exceptions (e.g., units that provide for transitional housing for the homeless may qualify as low-income units). See sections 42(i)(3) and 42(c)(1)(E) for more information.

Except as explained in the instructions for line 3b, below, the **eligible basis** for a new building is its adjusted basis as of the close of the first tax year of the credit period. For an existing building, the eligible basis is its acquisition cost plus capital improvements through the close of the first tax year of the credit period. See the instructions for Part II, line 7b, and section 42(d) for other exceptions and details.

**Line 3b. Special rule to increase basis for buildings in certain high-cost areas.** If the building is located in a high-cost area (i.e., a "qualified census tract" or a "difficult development area"), the eligible basis may be increased as follows:

- For new buildings, the eligible basis may be up to 130% of such basis determined without this provision.
- For existing buildings, the rehabilitation expenditures under section 42(e) may be up to 130% of the expenditures determined without regard to this provision.

Enter the percentage to which eligible basis was increased. For example, if the eligible basis was increased to 120%, enter "120." See section 42(d)(5)(C) for definitions of a qualified census tract and a difficult development area, and for other details.

**Note:** *Before increasing eligible basis, the eligible basis must be reduced by any Federal subsidy that the taxpayer elects to exclude from eligible basis and any Federal grant received.*

**Line 4.** Enter the percentage of the aggregate basis of the building financed by certain tax-exempt bonds. If this amount is zero, enter zero (do not leave this line blank).

**Line 5.** The placed-in-service date for a residential rental building is the date the first unit in the building is ready and available for occupancy under state or local law. Rehabilitation expenditures treated as a separate new building under section 42(e) are placed in service at the close of any 24-month period over which the expenditures are aggregated, whether or not the building is occupied during the rehabilitation period.

**Line 6.** Generally, a building is treated as federally subsidized if at any time during the tax year or any prior tax year there is outstanding any tax-exempt bond financing or any below-market Federal loan, the proceeds of which are used (directly or indirectly) for the building or its operation.

However, buildings receiving assistance under the Home Investment Partnership Act (as in effect on August 10, 1993) are **not** treated as federally subsidized if 40% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income. Buildings located in New York City receiving this assistance are not treated as federally subsidized if 25% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income.

Generally, no credit is allowable for acquisition of an existing building unless substantial rehabilitation is done. See sections 42(d)(2)(B)(iv) and 42(f)(5). **Do not** issue Form 8609 for acquisition of an existing building unless substantial rehabilitation under section 42(e) is placed in service.

## Part II—First-Year Certification

### Completed by Building Owner for the First Year of Credit Period Only

**Note:** *Form 8609 is invalid unless Part I is completed by the appropriate housing credit agency.*

**Line 7a.** See the instructions for line 5. This date must correspond with the date certified to the housing credit agency.

**Line 7b.** Enter the eligible basis (in dollars) of the building. Determine eligible basis at the close of the first year of the credit period (see sections 42(f)(1), 42(f)(5), and 42(g)(3)(B)(iii) for determining the start of the credit period).

For new buildings, the eligible basis is generally the cost of construction or rehabilitation expenditures incurred under section 42(e).

For existing buildings, the eligible basis is the cost of acquisition plus rehabilitation expenditures not treated as a separate new building under section 42(e) incurred by the close of the first year of the credit period.

If the housing credit agency has entered an increased percentage in Part I, line 3b, multiply the eligible basis by the increased percentage and enter the result.

Residential rental property may qualify for the credit even though part of the building in which the residential rental units are located is used for commercial use. Do not include the cost of the nonresidential rental property. However, you may generally include the basis of common areas or tenant facilities, such as swimming pools or parking areas, provided there is no separate fee for the use of these facilities and they are made available on a comparable basis to all tenants in the project. You must reduce the eligible basis by the amount of any Federal grant received. Also reduce the eligible basis by the entire basis allocable to non-low-income units that are above the average quality standard of the low-income units in the building. You may, however, include a portion of the basis of these non-low-income units if the cost of any of these units does not exceed by more than 15% the average cost of all low-income units in the building, and you elect to exclude this excess cost from the eligible basis by checking the "Yes" box for line 9b. See section 42(d).

You may elect to reduce the eligible basis by the principal amount of any outstanding below-market Federal loan or the proceeds of any tax-exempt obligation to obtain a higher credit percentage. To make this election, check the "Yes" box in Part II, line 9a. Reduce the eligible basis by the principal amount of such loan or obligation proceeds before entering the amount on line 7b. You must reduce the eligible basis by the principal amount of such loan or obligation proceeds or any Federal grant received before multiplying the eligible basis by the increased percentage in Part I, line 3b.

**Line 8a.** Multiply the eligible basis of the building shown on line 7b by the smaller of the unit percentage or the floor space percentage as of the close of the first year of the credit period and enter the result on line 8a. Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied. See the instructions for Part I, line 3a, on page 3.

**Line 8b.** Each building is considered a separate project under section 42(g)(3)(D) unless, before the close of the first calendar year in the project period (defined in section 42(h)(1)(F)(ii)), each building that is (or will be) part of a multiple building project is identified by attaching a statement to your tax return (as required in the instructions for Form 8586, line 1) that includes **(a)** the name and address of the project and each building in the project, **(b)** the building identification number (BIN) of each building in the project, **(c)** the aggregate credit dollar amount for the project, and **(d)** the credit allocated to each building in the project.

Two or more qualified low-income buildings may be included in a **multiple building project** only if they **(a)** are located on the same tract of land (unless all of the dwelling units in all of the buildings being aggregated in the multiple building project are low-income units—see section 42(g)(7)), **(b)** are owned by the same person for Federal tax purposes, **(c)** are financed under a common plan of financing, and **(d)** have similarly constructed housing units. A qualified low-income building includes residential rental property that is an apartment building, a single-family dwelling, a town house, a row house, a duplex, or a condominium.

**Line 9a.** You may elect to reduce the eligible basis by the principal amount of any outstanding below-market Federal loan or the proceeds of any tax-exempt obligation and claim the 70% present value credit on the remaining eligible basis. However, if you make this election, you may not claim the 30% present value credit on the portion of the basis that was financed with the below-market Federal loan or the tax-exempt obligation.

**Line 9b.** See the instructions for Part II, line 7b, on page 3.

**Line 10a.** You may elect to begin the credit period in the tax year after the building is placed in service. Once made, the election is irrevocable.

**Note:** Section 42(g)(3)(B)(iii) provides special rules for determining the start of the credit period for certain multiple building projects.

**Line 10b.** Partnerships with 35 or more partners are treated as the taxpayer for purposes of recapture unless an election is made not to treat the partnership as the taxpayer. Check the "Yes" box if you do not want the partnership to be treated as the taxpayer for purposes of recapture. Once made, the election is irrevocable.

**Line 10c.** You must meet the minimum set-aside requirements under section 42(g) for the project by electing one of the following tests:

**1. 20-50 Test:** 20% or more of the residential units in the project must be both rent restricted and occupied by

individuals whose income is 50% or less of the area median gross income, or

**2. 40-60 Test:** 40% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income.

Once made, the election is irrevocable.

**Note:** Owners of buildings in projects located in New York City may **not** use the 40-60 test. Instead, they may use a **25-60 Test:** 25% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income (see also section 142(d)(6)).

**Caution:** The minimum set-aside requirement must be met by the close of the first year of the credit period in order to claim any credit for the first year or for any subsequent years.

**Line 10d.** The deep-rent-skewed 15-40 election is not an additional test for satisfying the minimum set-aside requirements of section 42(g). The 15-40 test is an election that relates to the determination of a low-income tenant's income. Generally, a continuing resident's income may increase up to 140% of the applicable income limit (50% or less or 60% or less of the area median gross income under the minimum set-aside rules in **Line 10c** above). When the deep-rent-skewed election is made, the income of a continuing resident may increase up to 170% of the applicable income limit. If this election is made, at least 15% of all low-income units in the project must be occupied at all times during the compliance period by tenants whose income is 40% or less of the area median gross income. A deep-rent-skewed project itself must meet the requirements of section 142(d)(4)(B). Once made, the election is irrevocable.

## Signature

Because Form 8609 requires an original signature each year and the form is not issued annually by the housing credit agency, complete the following steps after you receive the form from the agency:

1. Complete Part II of the form (do not sign it).
2. After completing Part II, make a copy of the form.
3. Complete all items in the signature section of the copy that you file. Keep the original copy you receive from the housing credit agency so that copies can be made from the unsigned original copy and used for filing with your future years' income tax returns.

4. Complete Schedule A (Form 8609) for each building and attach it to the signed copy of Form 8609 you attach to your income tax return.

5. If the maximum applicable credit percentage allocated to the building in Part I, line 2, reflects an election made under section 42(b)(2)(A)(ii), you must attach a copy of the election statement and, if the binding agreement specifying the housing credit dollar amount is contained in a separate document, a copy of the binding agreement to Form 8609 for the first tax year in which the credit is claimed.

6. If the housing credit dollar amount allocated in Part I, line 1b, reflects an allocation made under section 42(h)(1)(E) or 42(h)(1)(F), you must attach a copy of the allocation document to Form 8609 for the first tax year the credit is claimed.

**Note:** If you received more than one allocation (e.g., an allocation the year the building was placed in service and a second allocation based on an addition to qualified basis), attach signed copies of both Forms 8609 to your return.

**Paperwork Reduction Act Notice.** We ask for the information on these forms to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file the following forms will vary depending on individual circumstances. The estimated average times are:

### Form 8609

**Learning about the law or the form.** . . . . . 2 hr., 17 min.

**Recordkeeping** . . . . . 8 hr., 37 min.

**Preparing and sending the form to the IRS** . . . . . 2 hr., 31 min.

### Schedule A (Form 8609)

**Learning about the law or the form** . . . . . 47 min.

**Recordkeeping** . . . . . 6 hr., 41 min.

**Preparing and sending the form to the IRS** . . . . . 56 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Internal Revenue Service at the address listed in the instructions for the tax return with which these forms are filed.



**SCHEDULE A  
(Form 8609)**(Rev. January 2000)  
Department of the Treasury  
Internal Revenue Service**Annual Statement**

► Attach to Form 8609 and file with owner's Federal income tax return.

► For Paperwork Reduction Act Notice, see instructions for Form 8609.

OMB No. 1545-0988

Attachment  
Sequence No. **36a****A** Building owner's name**B** Identifying number ►**C** Building identification number ►

<b>1</b>	Eligible basis of building . . . . .	<b>1</b>		
<b>2</b>	Low-income portion (smaller of unit percentage or floor-space percentage) (if first year of the credit period, see instructions) . . . . .	<b>2</b>	.	
<b>3</b>	Qualified basis of low-income building. Multiply line 1 by line 2 (see instructions for exceptions)	<b>3</b>		
<b>4</b>	Part-year adjustment for disposition or acquisition during the tax year . . . . .	<b>4</b>		
<b>5</b>	Credit percentage . . . . .	<b>5</b>	.	
<b>6</b>	Multiply line 3 or line 4 by the percentage on line 5 . . . . .	<b>6</b>		
<b>7</b>	Additions to qualified basis, if any . . . . .	<b>7</b>		
<b>8</b>	Part-year adjustment for disposition or acquisition during the tax year . . . . .	<b>8</b>		
<b>9</b>	Credit percentage. Enter one-third of the percentage on line 5 . . . . .	<b>9</b>	.	
<b>10</b>	Multiply line 7 or line 8 by the percentage on line 9 . . . . .	<b>10</b>		
<b>11</b>	Section 42(f)(3)(B) modification . . . . .	<b>11</b>		
<b>12</b>	Add lines 10 and 11 . . . . .	<b>12</b>		
<b>13</b>	Credit for building before line 14 reduction. Subtract line 12 from line 6 . . . . .	<b>13</b>		
<b>14</b>	Disallowed credit due to Federal grants (see instructions) . . . . .	<b>14</b>		
<b>15</b>	Credit allowed for building for tax year. Subtract line 14 from line 13, but do not enter more than the amount shown on Form 8609, Part I, line 1b . . . . .	<b>15</b>		
<b>16</b>	Taxpayer's proportionate share of credit for the year (see instructions) . . . . .	<b>16</b>		
<b>17</b>	Adjustments for deferred first-year credit and prior election to accelerate credit (see instructions)	<b>17</b>		
<b>18</b>	Taxpayer's credit. Combine lines 16 and 17. Enter here and in Part I of Form 8586 (see instructions)	<b>18</b>		

**General Instructions***Section references are to the Internal Revenue Code unless otherwise noted.*

**Note:** Some of the line numbers on the December 1988 and March 1991 revisions of Form 8609 differ from later revisions. In these cases, the line references that correspond to the 1988 or 1991 revisions, if different, are shown in parentheses in these instructions.

**Purpose of Schedule**

Schedule A (Form 8609) must be completed by the building owner each year of the 15-year compliance period, whether or not a credit is claimed for the tax year. For a building receiving separate allocations for the existing building and for the rehabilitation expenditures, a separate Schedule A must be completed for each credit claimed.

The building owner must attach Schedule A, the owner's copy of Form 8609, and **Form 8586**, Low-Income Housing Credit, to the owner's tax return. If the owner is a partnership, S corporation, estate, or trust (flow-through entity), the entity will complete and attach these forms to its return. If you are a partner, shareholder, or beneficiary in a flow-through entity that owns the building, Form 8586 is the only form needed to claim the credit.

**Recapture of Credit**

If the qualified basis of the building has decreased from the qualified basis at the close of the previous tax year, you may have to recapture parts of the credits allowed in previous years. See **Form 8611**, Recapture of Low-Income Housing Credit.

**Specific Instructions**

**Item B.** If you are an individual, enter your social security number. All others, enter your employer identification number.

**Item C.** Enter the building identification number from Part I, item E, of Form 8609.

**Line 1.** Generally, the eligible basis of a building for its entire 15-year compliance period is the amount of eligible basis entered on Form 8609, line 7b (Part II, line 1b, on the 1988 and 1991 revisions).

**Basis increases for buildings in certain high-cost areas.** In order to increase the allocated credit for buildings in certain high-cost areas, the housing credit agency may increase the eligible basis of buildings located in these areas (after adjustments, if any, for Federal subsidies and grants). The agency may make this increase under the high-cost-area provisions of section 42(d)(5)(C).

The agency shows the increased percentage of the eligible basis in Part I, line 3b, of Form 8609. The eligible basis entered on Form 8609 should reflect the percentage increase.

If the agency used an earlier revision of Form 8609 that did not have line 3b in Part I to issue a 1990 credit allocation to which the high-cost-area provisions were applied, it should have notified you of the Part I percentage increase in a separate statement. Based on this statement, increase the eligible basis of the building reported in Part II of the Form 8609 you file.

**Note:** This increase cannot cause the credit on line 15 of Schedule A to exceed the credit amount allocated on line 1b, Part I of Form 8609.

**Basis reductions.** The amount of eligible basis entered on Form 8609 does not include the cost of land, the amount of any Federal grant received for the building during the first year of the credit period, or any portion of a building's adjusted basis for which an election was made prior to November 5, 1990, under section 167(k). Do not reduce the eligible basis on line 1 of Schedule A by the amounts of any Federal grants received after the first year of the credit period. The calculation for line 14 of Schedule A will reduce the credit by the amount of any Federal grants received during the compliance period that did not reduce the eligible basis during the first year of the credit period.

For more details on determining eligible basis, see the instructions for Form 8609, line 7b (Part II, line 1b, on the 1988 and 1991 revisions).

**Line 2.** Only the portion of the basis on line 1 attributable to the low-income rental units in the building at the close of the tax year qualifies for the credit. This is the **smaller of (a)** the percentage of low-income units to all residential rental units (the "unit percentage") or **(b)** the percentage of floor space of the low-income units to the floor space of all residential rental units (the "floor space percentage"). This percentage must be shown on line 2 as a decimal carried out to at least four places (e.g., 50% = .5000). Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied.

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. Section 42(i)(3) provides for certain exceptions (e.g., units that provide



transitional housing for the homeless may qualify as low-income units). See section 42(i)(3) for more details.

If you dispose of the building, or your entire interest in the building, before the close of the tax year, the low-income portion must be determined on the date you disposed of the building. If you dispose of less than your entire interest in the building, the low-income portion must be determined at the close of the tax year.

**First-year modified percentage.** For the first year of the credit period, you must use a modified percentage on line 2 to reflect the average portion of a 12-month period that the units in a building were occupied by low-income individuals. Find the low-income portion as of the end of each full month that the building was in service during the year. Add these percentages together and divide by 12. Enter the result on line 2. For example, if a building was in service for the last 3 full months of your tax year, and was half occupied by low-income tenants as of the end of each of those 3 months, then assuming the smaller percentage was the unit percentage, you would enter .1250 on line 2 (i.e.,  $[\frac{.5}{2} + \frac{.5}{2} + \frac{.5}{2}] \div 12 = .1250$ ).

This first year adjustment does not affect the amount of qualified basis on which the credit is claimed in the remaining 9 years of the credit period. In general, the credit is claimed in the remaining 9 years by reference to the qualified basis at the close of each tax year.

Because the first year credit is not determined solely by reference to the qualified basis at the close of the first year of the credit period, any reduction in credit resulting from the application of the first year adjustment may be claimed in the 11th year. See the instructions for line 17 on page 3.

**Line 3.** Generally, multiply line 1 by line 2 to figure the portion of the eligible basis of the building attributable to the low-income residential rental units.

**Imputed qualified basis of zero.** However, the qualified basis of the building (line 3) is zero if any of the following three conditions apply.

1. The minimum set-aside requirement elected for the project on Form 8609, line 10c (Part II, line 5c, on the earlier revisions), is not met.
2. The deep-rent-skewed test (15-40 Test) elected for the project on Form 8609, line 10d (Part II, line 5c, on the 1988 revision; Part II, line 5d, on the 1991 revision), is violated. The 15-40 Test is not an additional test for satisfying the minimum set-aside requirements of section 42(g). The 15-40 Test is an election that relates to the determination of a low-income tenant's income. If this test is elected, at least 15% of all low-income units in the project must be occupied at all times during the compliance period by tenants whose income is 40% or less of the area median gross income.
3. You disposed of the building or your entire interest therein during the tax year. If you did not post a bond, in addition to using an imputed basis of zero on line 3,

you may have to recapture a portion of credits previously taken. File Form 8611 to figure and report the recapture amount. This paragraph affects only those taxpayers who dispose of the building or their entire interest therein. Those acquiring the building (or any interest therein) are not affected and, if the minimum set-aside requirements are otherwise satisfied, they may take a credit for the fraction of the year the building is owned by them, regardless of whether or not the seller posted a bond.

Regulations under section 42(j) may provide other instances where you will have an imputed qualified basis of zero.

**Note:** If the qualified basis of the building is zero, or if the building has an imputed qualified basis of zero, you may **not** claim a credit for the building for the tax year. You must enter zero on lines 3 and 16, and skip lines 4 through 15 and lines 17 and 18.

**At-risk limitation for individuals and closely held corporations.** The basis of property may be limited if you borrowed against the property and are protected against loss, or if you borrowed money from a person who has other than a creditor interest in the property. See section 42(k).

**Line 4.** If you disposed of a building or your entire interest therein during the tax year and you posted a bond under section 42(j)(6), you may claim a credit based only on the number of months during the tax year for which you owned the building or an interest therein. Similarly, if you previously had no interest in the building, but you acquired the building or an interest therein during the tax year, you may claim a credit based only on the number of months during the tax year for which you owned the building or an interest therein.

If the building is owned by a flow-through entity, the entity does not need to make any adjustment on line 4, unless the entity either disposes of the building or its entire interest therein, or acquires the building or an interest therein during the tax year (and the entity previously had no interest in the building). Do not make an adjustment on line 4 for changes in the interests of the members of the flow-through entity during the tax year. Instead, the entity must reflect these changes in the amount of credit it passes through to its members.

The owner who has owned the building for the longest period during the month in which the change in ownership occurs is deemed to have owned the building for that month. If the seller and new owner have owned the building for the same amount of time during the month of disposition, the seller is deemed to have owned the building for that month.

If you owned the building, or an interest therein, for the entire year (i.e., the full 12 months in your tax year), enter zero on line 4 and go to line 5. If, for a portion of the tax year, you had no ownership interest in the building, multiply the qualified basis on line 3 by a fraction, the numerator of which is the number of months during the tax year that you owned the building and the denominator of which is 12 (e.g., if line 3 is

\$100,000 and the building was owned for 9 months, then line 4 would be \$75,000 ( $\frac{9}{12} \times \$100,000$ ). Enter the result on line 4.

**Note:** Upon a change of ownership, the seller must give the new owner a copy of Form 8609 with Parts I and II completed and the signature area blank. The buyer and seller must retain copies of Form 8609 for recordkeeping purposes. The new owner must follow the Schedule A instructions and the instructions for Form 8609 to claim any credits.

**Line 5.** If the agency has made an allocation on Form 8609, enter on line 5 the credit percentage shown on Form 8609, Part I, line 2. This percentage must be shown on line 5 as a decimal carried out to at least four places (e.g., 9.12% would be shown on line 5 as .0912).

**Note:** If you were allocated a 70% present value credit percentage for a building that was not federally subsidized and the building later receives a Federal subsidy, your credit percentage is reduced to the 30% present value credit that was in effect during the month the building was placed in service or for the month elected under section 42(b)(2)(A)(ii), whichever applies. The 30% present value credit applies to the building for the year the Federal subsidy was received and for the remainder of the compliance period, whether or not the Federal subsidy is repaid. See section 42(i)(2).

**Line 6.** If you owned the building, or had an interest therein, for the entire tax year, multiply line 3 by line 5. If you had no ownership interest in the building for a portion of the tax year, multiply line 4 by line 5.

## Lines 7 Through 12

If you are **not** claiming a credit for additions to qualified basis on line 7, skip lines 7 through 12 and go to line 13.



You may claim a credit for an addition to qualified basis only if credit amounts have been allocated by the housing credit agency to cover these additions.

**Line 7.** An addition to qualified basis results when there is an increase in the number of low-income units or an increase in the floor space of the low-income units over that which existed at the close of the first year of the credit period (before application of the modified percentage calculation). Credits for an addition to qualified basis are claimed at the reduced credit percentage of two-thirds of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 through the end of the 15-year compliance period.

If you are claiming a credit for additions to qualified basis, you must subtract the original qualified basis of the building at the close of the first year of the credit period (see Form 8609, line 8a (Part II, line 2a, on the 1988 and 1991 revisions)) from the building's qualified basis entered on line 3 of Schedule A. Enter the result on line 7. If the result is zero or less, skip lines 8 through 12 and enter the credit from line 6 on line 13.

**Line 8.** Similar to the instructions for line 4, if you disposed of a building or your entire interest therein during the tax year and you posted a bond under section 42(j)(6), your credit for the year is adjusted to reflect the number of months during the tax year that you owned the building or an interest therein. Similarly, if you previously had no interest in the building, but you acquired the building or an interest therein during the tax year, your credit for the year is adjusted to reflect the number of months during the tax year you owned the building or an interest therein.

If the building is owned by a flow-through entity, the entity does not need to make any adjustment on line 8, unless the entity either (a) disposes of the building or its entire interest therein or (b) acquires the building or an interest therein during the tax year (and the entity previously had no interest in the building). Do not make an adjustment on line 8 for changes in the interests of the members of the flow-through entity during the tax year. Instead, the entity must reflect these changes in the amount of credit it passes through to its members.

If you owned the building, or an interest therein, for the entire tax year, enter zero on line 8 and go to line 9. If you had no ownership interest in the building for a portion of the tax year, multiply the additions to qualified basis on line 7 by a fraction, the numerator of which is the number of months during the tax year you owned the building and the denominator of which is 12. Enter the result on line 8.

**Line 9.** The credit for additions to the building's qualified basis is determined using two-thirds of the credit percentage allowable for the building's original qualified basis. Therefore, one-third of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 is not allowed. Enter on line 9 one-third of the amount shown on line 5. This amount must be reported on line 9 as a decimal carried out to at least four places (e.g., if the credit percentage entered on line 5 is .0912, one-third of that percentage would be expressed as .0304). See section 42(f)(3).

**Line 10.** If you owned the building, or had an interest therein, for the entire tax year, multiply line 7 by line 9. If you had no ownership interest in the building for a portion of the tax year, multiply line 8 by line 9.

**Line 11.** Additions to qualified basis must be adjusted to reflect the average portion of the year that the low-income units relating to the increase were occupied. This adjustment is required if there is an increase in the qualified basis of the building from the previous tax year. To determine this adjustment amount, complete the worksheet on page 4.

**Line 14.** The eligible basis must be reduced by the amount of any Federal grant for the building or the operation thereof during the 15-year compliance period. If this reduction does not apply, enter zero on line 14. Otherwise, figure the reduction as follows:

1. Divide the total amount of all Federal grants received for the building during the compliance period that did not already reduce the amount of the eligible basis (reported on line 1 of Schedule A) by the eligible basis on line 1 of this Schedule A. Express the result as a decimal carried out to at least four places.

**Note:** *If the eligible basis on line 1 of this Schedule A was increased by a percentage allowable under section 42(d)(5)(C) (and reflected either in Part I, line 3b, of Form 8609 or in a separate statement issued to you by the housing credit agency), then increase the total amount of all Federal grants in 1 by this percentage increase and divide this amount by the eligible basis on line 1 of this Schedule A. For example, if the percentage increase is 130% and all Federal grants total \$11,000, multiply \$11,000 by 1.3000 and divide the result (\$14,300) by the eligible basis on line 1.*

2. Multiply the decimal amount determined in 1 by the credit on line 13. Enter this result on line 14.

**Line 16.** To determine the amount to enter on line 16, you must take into account the applicable rules listed in paragraphs 1, 2, 3, and the **Special rules** below.

1. If the building is owned completely by one taxpayer, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

2. If the building is owned by more than one taxpayer, and those taxpayers are not members of a flow-through entity, then the line 15 credit (after adjustment for any applicable special rule below) must be distributed according to each taxpayer's respective ownership interest in the building. For example, if a building is owned by individuals A and B (60% by A and 40% by B), each would complete a separate Schedule A as follows. Lines 1 through 15 would be the same for each, assuming no part-year adjustments are necessary. However, A would enter 60% of line 15 on line 16, and B would enter 40% of line 15 on line 16. Therefore, enter on line 16 your share of the line 15 credit for the building that relates to your interest in the building. If your interest increases or decreases during the tax year, the change must be taken into account in determining your share of the line 15 credit.

**Note:** *The aggregate credit claimed by the owners of the building cannot exceed the line 15 credit amount for the building.*

3. If a flow-through entity is completing Schedule A as the sole owner of the building, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

**Special rules.** If a taxpayer is subject to recapture because of failure to post a bond upon the disposition of a building or interest therein (see **De minimis recapture rule** below), no credit is allowed to the taxpayer for that percentage of the interest disposed of by the taxpayer. The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer's remaining interest in the building at the close of the tax year. For example, assume that a taxpayer owns 100% of a building

for 9 months of the tax year and 40% of the building for the last 3 months of the tax year. (The taxpayer disposed of a 60% interest at the close of the ninth month.) If the taxpayer does not post a bond, the taxpayer's credit on line 16 would be based on 40% of the line 15 credit for the building. Similarly, although a taxpayer might not be subject to recapture upon a disposition of a de minimis portion (explained below) of the taxpayer's interest in the building, no credit is allowed to the taxpayer for the percentage of the interest disposed of by the taxpayer. The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer's remaining interest in the building at the close of the tax year.

If the taxpayer posts a bond upon the disposition of the building or an interest therein, the taxpayer is allowed credit for the year both with respect to the ownership interest disposed of by the taxpayer and the interest retained by the taxpayer. For example, again assume that a taxpayer owns 100% of a building for 9 months of the tax year and 40% of the building for the last 3 months of the tax year. After posting a bond, the taxpayer's credit on line 16 would be based upon  $\frac{1}{2}$  of 100% (or 75%) of the line 15 credit for the building plus  $\frac{3}{12}$  of 40% (or 10%) of the line 15 credit amount.

If a taxpayer posts a bond upon the disposition of the building or upon a disposition of the taxpayer's entire interest in the building, the taxpayer's line 16 credit amount is determined by multiplying the line 15 credit amount by the percentage interest in the building disposed of by the taxpayer. For example, if a building is owned by individuals A and B (60% by A and 40% by B) and at the close of the fifth month of the tax year, C buys A's 60% interest in the building and A posts a bond, then A would enter 60% of line 15 on line 16. (Lines 4 and 8 have already taken into account the 5 months of the tax year that A held an interest in the building.)

**De minimis recapture rule.** For administrative purposes, the Service intends to issue regulations adopting a de minimis rule that applies to partners in partnerships (other than partnerships described in section 42(j)(5)(B)) owning interests in qualified low-income buildings. The rule allows a partner to elect to avoid or defer recapture resulting from a disposition of interest in a partnership without posting bond until the partner has disposed of more than 33 $\frac{1}{3}$ % of the partner's greatest total interest in the qualified low-income building through the partnership. See Rev. Rul. 90-60, 1990-2 C.B. 3, for more information on the de minimis rule.

Upon application by the building owner, the IRS may waive any recapture of the low-income housing credit for any de minimis error in complying with the minimum set-aside requirements.

**Line 17.** Use line 17 to report the following adjustments:

**Deferred first-year credit.** The first-year credit may have been reduced based on the number of full months the building was

in service. The deferred balance of the credit for the first year is allowed in the 11th year. Include it on line 17 as a **positive** amount.

For example, see the example under **First-year modified percentage** on page 2. If this is the 11th year, enter .8750 times the eligible basis of the building (line 1) times the low-income portion (line 2) times the credit percentage (line 5). The factor .8750 is 1.0000 minus .1250, the modified percentage figured for year one in the example.

**Reduction for one-time election to accelerate credit.** The Revenue Reconciliation Act of 1990 allowed qualifying taxpayers to make a one-time election to accelerate their credit for the first tax year ending after October 24, 1990. If this election was made, you must reduce each later year's allowable credit for property on which the increased credit was claimed by that year's pro rata share of the increased credit. To find the pro rata reduction share, divide the amount on line 17 of the January 1991 revision of

Schedule A (Form 8609) by the number of allowable credit years after the election year. This pro rata reduction amount will be the same for each credit year after the election year. Include it on line 17 as a **negative** amount.

For example, assume a taxpayer elected to claim an accelerated credit of \$90 for the 1990 tax year. If the property is eligible for 9 years of credit after the election year, the allowable credit in each of the remaining 9 years is reduced by \$10 (\$90 divided by 9). In this example, the taxpayer (or its successor) would report (\$10) on line 17 for each of the 9 tax years after the election year.

**Line 18.** If you are a qualifying partnership or S corporation that elected the accelerated credit for the first tax year ending after October 24, 1990, enter the line 18 amount in Part I of Form 8586 and separately allocate the line 18 amount to partners and shareholders as follows:

1. The regular 100% credit portion is allocated to nonqualifying partners.

2. The reduced credit portion (i.e., 100% credit less the line 17 pro rata reduction amount) is allocated to qualifying partners and all shareholders (see **Note** below regarding treatment of the reduced credit for nonqualifying shareholders).

**Note:** Although the increased credit was figured for all shareholders of a qualifying S corporation, shareholders who were nonqualifying shareholders were not permitted to claim on their tax returns their share of the increased credit. Instead, each nonqualifying shareholder's share of the increased credit is maintained in a suspense account and only the regular 100% credit is distributed to the nonqualifying shareholders on Schedule K-1 (Form 1120S). In tax years after the election year, the suspended credit is used to offset the nonqualifying shareholder's share of the pro rata reduction in the credit (line 17 of Schedule A). See Section 7 of Rev. Proc. 91-7, 1991-1 C.B. 416.

### Line 11 Worksheet (Keep for Your Records)

1	Enter the qualified basis of the building from line 3 of the previous tax year's Schedule A . . .	1	
	<b>Note:</b> If the amount entered on line 1 is greater than zero, skip line 2 and go to line 3.		
2	If the amount entered on line 1 was zero as a result of an imputed qualified basis of zero due to, for example, violation of the minimum set-aside requirement or the deep-rent-skewed test, enter what would otherwise have been the qualified basis of the building (i.e., the amount that would have been entered for the building on line 3 of the previous tax year's Schedule A). This amount may be determined by multiplying the amount on line 1 of the previous year's Schedule A by the amount on line 2 of the previous year's Schedule A . . . . .	2	
3	Increased qualified basis. Subtract the greater of the amount entered on line 1 or line 2 of this worksheet from the qualified basis entered on line 3 of this Schedule A. If the amount entered on line 1 or line 2 of this worksheet is greater than zero but less than the original qualified basis of the building entered on Form 8609, line 8a (Part II, line 2a, on the 1988 and 1991 revisions), then enter on line 3 of this worksheet the amount from line 7 of this Schedule A . . . . .	3	
	<b>Note:</b> If line 3 of this worksheet is zero or less, do not complete the worksheet. Instead, enter zero on line 11 of Schedule A and go to line 12.		
4	Modified percentage. This is similar to the <b>First-year modified percentage</b> instructions for line 2, Schedule A. For each month during the tax year in which there was an <b>increase</b> in the low-income portion of the building, take the low-income portion of the building and subtract the low-income portion of the building at the close of the previous tax year (the amount on line 2 of the previous tax year's Schedule A). For example, if the previous tax year's low-income portion of .5000 increased to .7500 for the months of October, November, and December of this tax year, then subtract .5000 from .7500 to get an increase of .2500 for each month of October through December. Add these amounts together, divide by 12, and enter this amount. (This amount must be shown as a decimal carried out to at least four places (e.g., .2500 + .2500 + .2500 = .7500, divided by 12 = .0625.)) . . . . .	4	
5	Increased qualified basis entitled to reduced credit. Multiply line 1 of Schedule A by line 4 of this worksheet . . . . .	5	
6	Increased qualified basis not entitled to reduced credit. Subtract line 5 above from line 3 above	6	
7	Schedule A, line 11 modification. Multiply the amount on line 6 of this worksheet by two-thirds of the amount on line 5 of Schedule A. Enter this amount on line 11 of Schedule A . . . . .	7	



**Recapture of Low-Income Housing Credit**

► Attach to your return.

OMB No. 1545-1035

**Note: Complete a separate Form 8611 for each building to which recapture applies.**Attachment  
Sequence No. **90**

<b>A</b> Name(s) shown on return		<b>B</b> Identifying number
<b>C</b> Address of building (as shown on Form 8609)	<b>D</b> Building identification number (BIN)	<b>E</b> Date placed in service (from Form 8609)
<b>F</b> If building is financed in whole or part with tax-exempt bonds, see instructions and furnish:		
(1) Issuer's name		(2) Date of issue
(3) Name of issue		(4) CUSIP number

**Note:** If recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust), skip lines 1 – 7 and go to line 8.

1	Enter total credits reported on Form 8586 in prior years for this building. . . . .	1		
2	Credits included on line 1 attributable to additions to qualified basis (see instructions) . . .	2		
3	Credits subject to recapture. Subtract line 2 from line 1 . . . . .	3		
4	Credit recapture percentage (see instructions) . . . . .	4		
5	Accelerated portion of credit. Multiply line 3 by line 4 . . . . .	5		
6	Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions) . . . . .	6		
7	Amount of accelerated portion recaptured. Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 13. All other flow-through entities (except electing large partnerships), enter the result here and enter each recipient's share on the appropriate line of Schedule K-1. Generally, flow-through entities other than electing large partnerships will stop here. ( <b>Note:</b> An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.) . . . . .	7		
8	Enter recapture amount from flow-through entity. . . . .	8		
9	Enter accelerated portion of the unused credit attributable to this building (see instructions) .	9		
10	Net recapture. Subtract line 9 from line 7 or line 8. If less than zero, enter -0-. . . . .	10		
11	Enter interest on the line 10 recapture amount (see instructions) . . . . .	11		
12	Total recapture. Add lines 10 and 11. Enter here and on the appropriate line of your tax return. If more than one Form 8611 is filed, add the line 12 amounts from all forms and enter the total on the appropriate line of your return. Electing large partnerships, see instructions . . . . .	12		

**Only Section 42(j)(5) partnerships need to complete lines 13 and 14.**

13	Enter interest on the line 7 recapture amount (see instructions). . . . .	13		
14	Total recapture. Add lines 7 and 13 (see instructions) . . . . .	14		

**General Instructions**

Section references are to the Internal Revenue Code.

**Purpose of Form**

Use this form if you must recapture part of the low-income housing credit you took in previous years because:

- The qualified basis of a building decreased from one year to the next, or
- You disposed of the building or an ownership interest in it, and you did not post a satisfactory bond or pledge eligible U.S. Treasury securities as collateral. For details on how to avoid recapture on a building disposition, see section 42(j)(6); **Form 8693**, Low-Income Housing Credit Disposition Bond; and Rev. Proc. 99-11, 1999-2 I.R.B. 14.

**Note:** If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years under section 42(k) before you calculate the recapture amount on this form.

To complete this form you will need copies of the following forms that you have filed:

**Form 8586**, Low-Income Housing Credit (and **Form 3800**, General Business Credit, if applicable); **Form 8609**, Low-Income Housing Credit Allocation Certification; **Schedule A (Form 8609)**, Annual Statement; and **Form 8611**.**Note:** Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in items C, D, E, and F of Form 8611.

Generally, recapture applies if:

- You dispose of a building or an ownership interest in it;
- There is a decrease in the qualified basis of the building from one year to the next; or
- The building no longer meets the minimum set-aside requirements of section 42(g)(1), the gross rent requirement of section 42(g)(2), or the other requirements for the units which are set aside.

However, recapture **does not** apply if:

- You disposed of the building or an ownership interest in it and you posted a satisfactory bond or pledged eligible U.S.

Treasury securities as collateral (for details, see section 42(j)(6); **Form 8693**; and Rev. Proc. 99-11);

- You disposed of an ownership interest in a building that you held through an electing large partnership;
- The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service;
- You correct a noncompliance event within a reasonable period after it is discovered or should have been discovered;
- The credit did not reduce your tax liability (but you must adjust the allowable general business credit carryback and carryforward); or
- The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

**Recordkeeping Requirements**

To verify changes in qualified basis from year to year, you must keep, for 3 years after the 15-year compliance period ends, a copy of all Forms 8586, 8609, Schedule A (Form 8609), 8611, and 8693.

## Specific Instructions

**Note:** If recapture is passed through from a flow-through entity (partnership, S corporation, estate or trust), skip lines 1–7 and go to line 8.

**Item F.** If the building is financed with tax-exempt bonds, furnish the following information: (1) name of the entity that issued the bond (not the name of the entity receiving the benefit of the financing); (2) date of issue, generally the first date there is a physical exchange of the bonds for the purchase price; (3) name of the issue, or if not named, other identification of the issue; and (4) CUSIP number of the bond with the latest maturity date. If the issue does not have a CUSIP number, enter "None."

**Line 1.** Enter the total credits claimed on the building for all prior years from Part I, Form 8586 (before reduction due to the tax liability limit). No credit may be claimed in the year of recapture. See Part I of Form(s) 8586 you have filed. **Do not** include credits taken by a previous owner.

**Line 2.** Determine the amount to enter on this line by completing a separate **Line 2 Worksheet** (below) for each prior year for which line 7 of Schedule A (Form 8609) was completed.

**Line 4.** Enter the credit recapture percentage, expressed as a decimal carried to at least 3 places, from the table below:

IF the recapture event occurs in . . .	THEN enter on line 4 . . .
Years 2 through 11 . . . . .	.333
Year 12 . . . . .	.267
Year 13 . . . . .	.200
Year 14 . . . . .	.133
Year 15 . . . . .	.067

**Line 6.** Enter the percentage decrease in qualified basis from the close of the previous year to the close of the current year.

For this purpose, figure qualified basis without regard to any additions to qualified basis after the first year of the credit period. Compare any decrease in qualified basis first to additions to qualified basis. Recapture applies only if the decrease in qualified basis

exceeds additions to qualified basis after the first year of the credit period.

If you disposed of the building or an ownership interest in it and did not post a bond, you must recapture all of the accelerated portion shown on line 5. Enter 1.000 on line 6.

**Note:** If the decrease causes the qualified basis to fall below the minimum set-aside requirements of section 42(g)(1) (the 20-50 test or the 40-60 test), then 100% of the amount shown on line 5 must be recaptured. Enter 1.000 on line 6. If you elected the 40-60 test for this building and the decrease causes you to fall below 40%, you **cannot** switch to the 20-50 test to meet the set-aside requirements. You must recapture the entire amount shown on line 5.

**Line 9.** Multiply the unused credits attributable to this building by the decimal amount on line 4 and enter the result on line 9. Reduce the amount of any unused credit by the amount of recapture before claiming any carryforward of the low-income housing credit on Form 3800. See the separate Instructions for Form 3800 for details on the carryforward of unused credits.

**Special rule for electing large partnerships.** Enter zero on line 9. An electing large partnership is treated as having fully used all prior year credits.

**Line 11.** Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest must be computed at the **overpayment rate** determined under section 6621(a)(1) and compounded on a daily basis from the due date (not including extensions) of the return for the prior year until the earlier of (a) the due date (not including extensions) of the return for the recapture year, or (b) the date the return for the recapture year is filed and any income tax due for that year has been fully paid.

Tables of interest factors to compute daily compound interest were published in Rev. Proc. 95-17, 1995-1 C.B. 556. The annual interest rate in effect and the corresponding page number in 1995-1 C.B. for periods through March 31, 1999, are shown in Rev. Rul. 98-61, 1998-51 I.R.B. 8. For periods after March 31, 1999, use the overpayment rate under section 6621(a)(1) in the revenue rulings published quarterly in the Internal Revenue Bulletin.

**Note:** If the line 8 recapture amount is from a section 42(j)(5) partnership, the partnership will figure the interest and include it in the recapture amount reported to you. Enter "-0-" on line 11 and write "Section 42(j)(5)" to the left of the entry space for line 11.

**Line 12. Special rule for electing large partnerships.** Subtract the current year credit, if any, shown on Form 8586, line 7, from the total of the line 12 amounts from all Forms 8611. Enter the result (but not less than zero) on Form 1065-B, Part I, line 26.

**Note:** You must also reduce the current year low-income housing credit, before entering it on Schedules K and K-1, by the amount of the reduction to the total of the recapture amounts.

**Lines 13 and 14.** Only section 42(j)(5) partnerships complete these lines. This is a partnership (other than an electing large partnership) that has at least 35 partners, unless the partnership elects (or has previously elected) not to be treated as a section 42(j)(5) partnership. For purposes of this definition, a husband and wife are treated as one partner.

For purposes of determining the credit recapture amount, a section 42(j)(5) partnership is treated as the taxpayer to which the low-income housing credit was allowed and as if the amount of credit allowed was the entire amount allowable under section 42(a).

See the instructions for line 11 to figure the interest on line 13. The partnership must attach Form 8611 to its Form 1065 and allocate this amount to each partner on Schedule K-1 (Form 1065) in the same manner as the partnership's taxable income is allocated to each partner.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping . . . . .** 6 hr., 56 min.

**Learning about the law or the form . . . . .** .1 hr., 5 min.

**Preparing and sending the form to the IRS . . . . .** 1 hr., 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the IRS at the address listed in the instructions for the tax return with which this form is filed.

### Line 2 Worksheet

<b>a</b> Enter the amount from line 10, Schedule A (Form 8609). . . .	<b>a</b>	
<b>b</b> Multiply <b>a</b> by 2 . . . . .	<b>b</b>	
<b>c</b> Enter the amount from line 11, Schedule A (Form 8609). . . .	<b>c</b>	
<b>d</b> Subtract <b>c</b> from <b>b</b> . . . . .	<b>d</b>	
<b>e</b> Enter decimal amount figured in step 1 of the instructions for line 14, Schedule A (Form 8609). If line 14 does not apply to you, enter -0- . . . . .	<b>e</b>	
<b>f</b> Multiply <b>d</b> by <b>e</b> . . . . .	<b>f</b>	
<b>g</b> Subtract <b>f</b> from <b>d</b> . . . . .	<b>g</b>	
<b>h</b> Divide line 16, Schedule A (Form 8609) by line 15, Schedule A (Form 8609). Enter the result here . . . . .	<b>h</b>	
<b>i</b> Multiply <b>g</b> by <b>h</b> . Enter this amount on line 2. (If more than one worksheet is completed, add the amounts on <b>i</b> from all worksheets and enter the total on line 2.) . . . . .	<b>i</b>	



**Low-Income Housing Credit Disposition Bond**  
(For use by taxpayers posting bond under section 42(j)(6))

Attach to your return after receiving IRS approval.

OMB No. 1545-1029

Attachment  
Sequence No. **91**

Name of taxpayer making disposition

Identifying number

**Part I Bonding****1** Address of building as shown on Form 8609 (do **not** use P.O. box)**2** Building identification number**3** Date the 15-year compliance period ends**4** Check the box that applies:This is an ☐ original bond, ☐ strengthening bond, or ☐ superseding bond.**5** Date property  
interest disposed of**6** Date bond issued**7a** Bond is given by \_\_\_\_\_ ( )  
Principal Telephone number (optional)

Address

as principal and \_\_\_\_\_  
Surety

Address

as surety or sureties.

**7b** As principal and surety, we are obligated to the United States in the amount of \$ \_\_\_\_\_. We also jointly and severally obligate our heirs, executors, administrators, successors, and assigns for the payment of this amount.**Part II Signatures**

Under penalties of perjury, I declare that I have examined this form and any accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of principal

Name (please print)

Date

Signature of principal

Name (please print)

Date

Signature of surety

Name and identifying number (please print)

Date

Signature of surety

Name and identifying number (please print)

Date

**Part III Certificate of Corporate Principal (corporations only)**

I certify that the person above, who signed on behalf of the principal, was an authorized representative of the corporation.

Signature of secretary of the corporation

Name (please print)

Date

**Part IV Approval by IRS (See instructions.)**Bond approved \_\_\_\_\_  
Date

Internal Revenue Service official

**General Instructions**

Section references are to the Internal Revenue Code.

**Paperwork Reduction Act Notice**

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control

number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 13 min.**Learning about the law or the form** . . . . . 14 min.**Preparing, copying, assembling, and sending the form to the IRS.** . . . . 40 min.If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send Form 8693 to this address. Instead, see **When and Where To File** on page 2.**Purpose of Form**

Use Form 8693 to post a bond under section 42(j)(6) to avoid recapture of the low-income housing credit.

The bond ensures payment of the recapture tax imposed under section 42(j). The conditions of the bond are that the principal (i.e., taxpayer):

- Does not attempt to defraud the United States of any tax under section 42(j);
- Files all returns and statements as required by law or regulations;
- Pays all taxes including any penalties and interest charges; and
- Complies with all other requirements of the law and regulations under section 42.

### Qualifying Sureties

The company acting as surety must hold a Certificate of Authority from the Department of the Treasury, Financial Management Service. These companies are listed in Treasury Circular 570. You may get a copy of this circular by writing to the Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Hwy., Hyattsville, MD 20782, or by calling (202) 874-6850 (not a toll-free number).

A taxpayer may not be a surety for itself, nor may a member of a firm or a partner in a partnership be a surety for the firm or partnership of which he or she is a member or a partner.

### Surety Termination

If a surety's certificate of authority is terminated, the surety may be relieved of liability under the bond provided it notifies the principal and the IRS by the date the termination announcement is published in the Federal Register. The notice must be sent by certified mail and must state that the principal has 60 days from the date the termination announcement is published in the Federal Register to get an adequate strengthening or superseding bond with another surety listed in Treasury Circular 570. If notice is given, the principal's rights under the bond will end 60 days after the date the termination announcement is published in the Federal Register.

A qualified surety (or coinsuring surety) may terminate its liability on a bond only if the surety notifies the principal and the IRS at least 60 days before the date the surety wants to terminate its liability. The notice must state that the principal has 60 days from the termination date to obtain an adequate superseding or strengthening bond from another qualified surety (or coinsuring surety).

If the surety does not provide this notice, it remains liable for the amount posted on the bond. If the surety gives notice but does not meet the 60-day notification requirement or fails to include a termination date in the notice, the surety's liability will terminate 60 days after the postmark date on the notice.

Send the IRS copy of the notice to the Internal Revenue Service Center, Philadelphia, PA 19255.

If the principal fails to post a strengthening or superseding bond within 60 days from the date (a) the termination announcement is published in the Federal Register or (b) on which a surety's liability on a bond terminates, recapture under section 42(j) is required.

### Period of Bond

The liability stated on the bond must be for the period of years remaining in the 15-year compliance period of the building plus an additional 58 months. The compliance period begins with the tax year the building was placed in service or the succeeding tax year if the election under section 42(f)(1) is made.

### Recordkeeping

Keep a copy of this Form 8693 together with all Forms 8586, 8609, Schedule(s) A (Form 8609), and 8611 for 58 months after the 15-year compliance period ends.

### Who Must File

Taxpayers who claimed a low-income housing credit on a residential rental building and later (in a tax year during the 15-year compliance period) disposed of the building or an ownership interest in it must file this form to avoid recapture of the credit claimed. A de minimis rule may apply to certain dispositions of interests in partnerships that own buildings in which a credit was claimed. See Rev. Rul. 90-60, 1990-2 C.B. 3, for additional information.

### Partnerships

**Section 42(j)(5) partnerships.**—Any person holding a power of attorney in a section 42(j)(5) partnership (a partnership with 35 or more partners that has not elected out of the section 42(j)(5) provisions) may post bond as principal on behalf of the partnership. A bond posted on behalf of a partnership must be posted in the partnership's name, with the name of the authorized representative of the partnership posting the bond appearing immediately below the partnership's name.

**Partnerships that elected out of the section 42(j)(5) provisions or have fewer than 35 partners.**—If partners in partnerships to which section 42(j)(5) does not apply want to post bond, the partners must post bond in their individual capacity as principals.

### When and Where To File

Submit the original and one copy of Form 8693 to the Internal Revenue Service Center, Philadelphia, PA 19255, within 60 days after the date of disposition of the building or interest therein. The completed form may be submitted by either the taxpayer or the surety.

When the IRS returns a copy of the approved form, attach a copy of it to your income tax return for the year in which the disposition occurred. Write "FORM 8693 ATTACHED" to the left of the entry space on your income tax return for reporting the recapture of the low-income housing credit.

## Specific Instructions

**Line 2. Building Identification Number (BIN).**—This is the number assigned to the building by the housing credit agency on Part I, item E, of **Form 8609**, Low-Income Housing Credit Allocation Certification.

**Line 7b. Amount of Bond.**—Use the worksheet below to calculate the bond amount. See Rev. Rul. 90-60 for additional information on the methodology for determining the bond amount.

If the amount is not an even multiple of \$100, increase the bond amount to the next higher multiple of \$100.

### Part III. Certificate of Corporate Principal.

—If the principal is a corporation, the authority of the person posting the bond must be certified by the secretary of the corporation by completing Part III. Or the corporation may attach copies of records that will show the authority of the officer signing if the copies are certified by the secretary to be true copies.

**Part IV. Approval by the IRS.**—The IRS will notify you of the approval or rejection of the bond. If approved, the IRS will send a copy of the approved Form 8693 to the principal shown in Part I. If rejected, the owner must recapture the allowed low-income housing credit. Use **Form 8611**, Recapture of Low-Income Housing Credit.

### Worksheet for Computing Bond Amount

1 Total credits taken by you in previous years and any additional credits you anticipate claiming for any year or portion thereof preceding the date of disposition . . . . .	\$
2 Bond factor amount . . . . .	%
3 Percentage of taxpayer's total interest in the qualified low-income building disposed of . . . . .	%
4 Bond amount required to be posted (line 1 × line 2 × line 3). Enter here and on line 7b . . . . .	\$

### Instructions for Worksheet

**Line 1.**—Enter the total amount of the credits claimed on the building. See Part I of Forms 8586 you have filed. Include any additional credits you anticipate claiming for any period preceding the date of disposition. Do not include credit amounts previously recaptured, credit amounts for which a bond was previously posted, or credits claimed on additions to qualified basis as determined under section 42(f)(3).

**Line 2. Bond Factor Amount.**—Enter the bond factor amount corresponding to the month in the compliance period in which the disposition occurred and the first year of the building's credit period. The IRS announces the monthly bond factor amounts quarterly in a revenue ruling published in the Internal Revenue Bulletin.

**Line 3.**—Enter the ownership interest in the qualified low-income building that you have disposed of. Include ownership interests held both directly and indirectly (e.g., through a partnership).



**Note:** File a separate Form 8823 for each building that is disposed of or goes out of compliance.

1 Building name (if any). Check if item 1 differs from Form 8609 <input type="checkbox"/>					2 Owner's name. Check if item 2 differs from Form 8609 <input type="checkbox"/>																																																										
Street address					Continuation																																																										
City or town, state, and ZIP code					Street address																																																										
					City or town, state, and ZIP code																																																										
3 Building identification number (BIN) <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>					4 Owner's taxpayer identification number <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <input type="checkbox"/> EIN <input type="checkbox"/> SSN																																																										
5 If this building is part of a multiple building project, enter the number of buildings in the project . . . . .																																																															
6a Total number of residential rental units in this building . . . . .																																																															
6b Total number of low-income units in this building . . . . .																																																															
6c Total number of residential units in this building determined to have noncompliance issues. . . . .																																																															
6d Total number of units reviewed by agency (see instructions) . . . . .																																																															
7 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY) . . . . .																																																															
8 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY) . . . . .																																																															
9 Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . . . <input type="checkbox"/>																																																															
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<table border="0"> <thead> <tr> <th></th> <th>Out of compliance</th> <th>Noncompliance corrected</th> </tr> </thead> <tbody> <tr><td>a Household income above income limit upon initial occupancy . . . . .</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>b Major violations of health, safety, and building codes (see instructions) . . . . .</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>c Pattern of minor violations of health, safety, and building codes (see instructions) . . . . .</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>d Owner failed to submit annual certification . . . . .</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>e Changes in eligible basis (see instructions) . . . . .</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>f Project failed to meet minimum set-aside requirement (20/50, 40/60 test) (see 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Street address					14 Name and telephone number of contact person																																																										
City or town, state, and ZIP code																																																															

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of authorizing official

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Print name and title

Date \_\_\_\_\_



## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Housing credit agencies use Form 8823 to fulfill their responsibility under section 42(m)(1)(B)(iii) to notify the IRS of noncompliance with the low-income housing tax credit provisions or any building disposition.

**File a separate form for each building that was disposed of or goes out of compliance.**

### Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building was disposed of or is not in compliance with the provisions of section 42 must file Form 8823.

### When To File

File Form 8823 no later than 45 days after **(a)** the building was disposed of or **(b)** the end of the time allowed the building owner to correct the condition(s) that caused noncompliance. For details, see Regulations section 1.42-5(e).

### Where To File

File Form 8823 with the Internal Revenue Service Center, Philadelphia, PA 19255.

## Specific Instructions

### Items 2, 4, 12b, and 12d

If there is more than one owner (other than as a member of a flow-through entity), attach a schedule listing the owners, their addresses, and their taxpayer identification numbers. Indicate whether each owner's taxpayer identification number is an employer identification number (EIN) or a social security number (SSN).

Both the EIN and the SSN have nine digits. An EIN has two digits, a hyphen, and seven digits. An SSN has three digits, a hyphen, two digits, a hyphen, and four digits and is issued only to individuals.

### Item 3

Enter the building identification number (BIN) assigned to the building by the housing credit agency as shown on Form 8609.

### Item 6d

"Reviewed by agency" includes physical inspection of the property, tenant file inspection, or review of documentation submitted by the owner.

### Item 7

Enter the date that the building ceased to comply with the low-income housing credit provisions. If there are multiple noncompliance issues, enter the earliest date that any issue was discovered. **Do not** complete item 7 for a building disposition. Instead, skip items 8 through 11, and complete item 12.

### Item 8

Enter the date that the noncompliance issue was corrected. If there are multiple issues, enter the date the last correction was made.

### Item 9

Do not check this box until **all** previously reported noncompliance issues have been corrected.

### Item 10b

Examples of major violations of health, safety, and building codes include:

- Structural and roof problems.
- Blockage of fire exits.
- Elevators functioning improperly.
- Smoke detectors or sprinklers not functioning.
- Pest infestation.
- Serious electrical, heating, or plumbing problems.
- Common area safety lighting problems.

### Item 10c

Report a pattern of minor health, safety, and building code violations in housing units. Minor violations are those that require correction but do not impair essential services and safeguards for tenants.

### Item 10e

Changes in eligible basis occur when common areas become commercial, fees are charged for facilities, etc.

### Item 10f

Failure to satisfy the minimum set-aside requirement in the first year of the credit period results in the permanent loss of the entire credit.

Failure to maintain the minimum set-aside requirement in any year after the first year of the credit period results in recapture of previously claimed credit and no future credit can be claimed. However, an owner who can again satisfy the minimum set-aside requirement may resume claiming credit after that date.

### Item 10h

Low-income housing credit properties are subject to Title VIII of the Civil Rights

Act of 1968, also known as the Fair Housing Act. It prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C. sections 3601 through 3619.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of low-income housing credit properties to comply with the requirements of the Fair Housing Act will result in the denial of the low-income housing tax credit on a per-unit basis.

The Department of Housing and Urban Development (HUD) enforces the Fair Housing Act. Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual from HUD by calling 1-800-343-3442.

### Item 10q

Check this box for violations other than those listed in 10a through 10p. Attach an explanation.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . 7 hr., 39 min.

**Learning about the law or the form** . . . . . 30 min.

**Preparing and sending the form to the IRS.** . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send Form 8823 to this address. Instead, see **Where To File** above.

